

DANIEL G. SWANSON, SBN 116556  
dswanson@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071  
Telephone: 213.229.7000  
Facsimile: 213.229.7520

CYNTHIA E. RICHMAN (D.C. Bar No.  
492089; *pro hac vice*)  
crichman@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036  
Telephone: 202.955.8500  
Facsimile: 202.467.0539

JULIAN W. KLEINBRODT, SBN 302085  
jkleinbrodt@gibsondunn.com  
GIBSON, DUNN & CRUTCHER LLP  
One Embarcadero Center, Suite 2600  
San Francisco, CA 94111  
Telephone: 415.393.8200  
Facsimile: 415.393.8306

MARK A. PERRY, SBN 212532  
mark.perry@weil.com  
JOSHUA M. WESNESKI (D.C. Bar No.  
1500231; *pro hac vice*)  
joshua.wesneski@weil.com  
WEIL, GOTSHAL & MANGES LLP  
2001 M Street NW, Suite 600  
Washington, DC 20036  
Telephone: 202.682.7000  
Facsimile: 202.857.0940

MORGAN D. MACBRIDE, SBN 301248  
morgan.macbride@weil.com  
WEIL, GOTSHAL & MANGES LLP  
Redwood Shores Pkwy, 4th Floor  
Redwood Shores, CA 94065  
Telephone: 650.802.3044  
Facsimile: 650.802.3100

Attorneys for Defendant APPLE INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

EPIC GAMES, INC.

Plaintiff, Counter-defendant  
v.

APPLE INC.,

Defendant, Counterclaimant

Case No. 4:20-cv-05640-YGR

**DECLARATION OF MARK A. PERRY IN  
SUPPORT OF APPLE INC.'S MOTION TO  
SHORTEN TIME**

The Honorable Yvonne Gonzalez Rogers

1 I, Mark A. Perry, hereby declare as follows:

2 1. I am an attorney licensed to practice in the State of California, and a member of the Bar  
3 of this Court. I am a partner at the law firm Weil, Gotshal & Manges LLP (“Weil”), counsel of record  
4 for Apple Inc. (“Apple”) in this case. I have personal knowledge of the facts stated below and, if called  
5 as a witness, would testify competently thereto. I submit this declaration in support of Apple’s Motion  
6 to Shorten Time Pursuant to Local Rule 6-3.

7 2. I have represented Apple in this litigation since shortly after it was filed in August 2020.

8 3. I am concurrently filing a declaration in support of Apple’s Motion for Entry of a Rule  
9 502(d) Order. In that declaration, I have detailed the relevant background of Apple’s efforts to comply  
10 with all of its discovery obligations while at the same time preserving privilege and/or work-product  
11 protection over certain documents.

12 4. As relevant here, pursuant to Court order and over its objections, Apple has produced  
13 approximately 7,668 documents over which it maintains its privilege assertions but that were ordered  
14 produced to Epic, on direction from either the Court or the Special Masters pursuant to the Special Master  
15 Protocol. We anticipate that there will be additional such documents as the Special Masters complete  
16 their determinations.

17 5. It is possible that Epic may introduce or use some of these documents at the evidentiary  
18 hearing set to resume on February 24, 2025.

19 6. Given this uncertainty, by letter dated February 5, 2025, Apple requested that Epic enter  
20 into a stipulation under Federal Rule of Evidence 502(d) to avoid raising waiver disputes before the  
21 Court, or any other forum, regarding Apple’s privilege assertions over the Disputed Documents.

22 7. By letter dated February 7, 2025, Epic declined to agree to Apple’s proposed Rule 502(d)  
23 stipulation without explanation.

24 8. By letter dated February 11, 2025, Apple indicated to Epic that it would be filing a motion  
25 with the Court pursuant to Federal Rule of Evidence 502(d) (“Rule 502(d) Motion”).

26 9. The Local Rules provide Epic with fourteen (14) days to respond to that motion, which  
27 would deprive the Court of the opportunity to address a fully-briefed 502(d) Motion prior to the  
28

1 resumption of the evidentiary hearing on February 24. Accordingly, in the same letter dated February  
2 11, 2025, Apple indicated that it would be filing an administrative motion to shorten time so that the  
3 Rule 502(d) issue could be resolved before February 24, as well as Apple's assumption that Epic would  
4 not oppose that relief.

5 10. Epic has not responded to the February 11 letter.

6 11. Without a Rule 502(d) order in place before the evidentiary hearing resumes, Apple could  
7 be prejudiced in its ability to litigate the privilege issues that may arise without risk of future disputes  
8 regarding waiver.

9 12. Apple therefore seeks an order pursuant to Local Rule 6-3 to shorten the time for Epic to  
10 respond by seven days to February 19, 2025.

11 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and  
12 correct. Executed this 12th day of February 2025, in Cupertino, California.

13  
14 Dated: February 12, 2025

Respectfully submitted,

15  
16 By: /s/ Mark A. Perry

17 Mark A. Perry  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28